

U.S. DISTRICT COURT
DISTRICT OF N.H.
FILED

2009 FEB 10 P 3:37

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

United States of America

v.

Criminal No. 08-cr-102-01-PB

Heather Heinemann

O R D E R

Today, the defendant Heather Heinemann was before the court on an initial appearance based on a motion notifying violations of her conditions of supervised release. The defendant waived the probable cause hearing. See Fed. R. Crim. P. 32.1(b)(1)(A). The defendant tested positive in December 2008 and January 2009 for marijuana, misled her probation officer regarding her association with a convicted felon (who is the father of her child and unborn child), and ignored the instructions of the probation officer to associate with the felon. Earlier in 2008, she was convicted of shoplifting and possession of marijuana and failed to notify her probation officer. No action was taken at that time. Based upon the waiver and information provided in the report of the U.S. Probation Officer, I find probable cause to hold defendant Heather Heinemann for a revocation hearing.

Defendant sought bail conditions under Fed. R. Crim. Proc. 32.1(a)(6). Under Rule 32.1(a)(6) defendant bears the burden of establishing by clear and convincing evidence that she will not

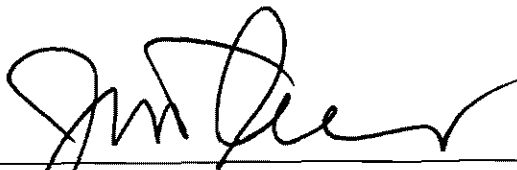
flee and that she poses no danger to any other person or to the community. Despite the opportunities given to the defendant through counseling, defendant continues to use marijuana. She is a danger to the community, to her children and to her unborn child. Notwithstanding the suggestions of the defense for an alternative to detention, such as curfew and counseling (and treatment for chronic depression), I find that there are no conditions of release which will reasonably assure the safety of the community.

Accordingly, it is ORDERED that the defendant be detained pending final revocation hearing.

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection

with a court proceeding.

SO ORDERED.



Justo Arenas
United States Magistrate Judge

Date: February 10, 2009

cc: Bjorn R. Lange, Esq.
Mark Zuckerman, Esq.
U.S. Marshal
U.S. Probation

